

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT PORTER,	)	
	)	Civil Action No. 04 - 1228
Plaintiff,	)	
	)	Judge Thomas M. Hardiman /
v.	)	Magistrate Judge Lisa Pupo Lenihan
	)	
A. KING, Correction Officer; ORENBAUN,	)	Doc. Nos. 48, 50
Correction Officer; CONNOR, Correction	)	
Officer; MARK CAPOZZA, Unit Manager;	)	
DURCO, (Sergeant); THE LIEUTENANT;	)	
and THE SERGEANT	)	
	)	
Defendants.	)	

**ORDER ON MOTION TO FILE AMENDED COMPLAINT**

Plaintiff, Robert Porter, a prisoner at S.C.I. Camp Hill, has submitted a motion requesting leave to file an Amended Complaint (Doc. No. 50) as well as a Motion Requesting Service of Process on Defendants (Doc. No. 48). As this Complaint was originally filed on August 17, 2004, an amendment at this juncture be very untimely. The allegations in the proposed amendment are actions that occurred in 2002, therefore, were within the knowledge of the Plaintiff at the time of original filing. However, it appears to the Court that Plaintiff is not asking to add new allegations, but to amend the caption of the Complaint. The Complaint as it now stands names as two of the Defendants "The Lieutenant" and "The Sergeant." The statement of claims filed as document number 48 appears to name this unnamed sergeant as Sergeant Negley. To the extent Plaintiff is seeking to amend the caption, this request will be granted. Service is not needed as the counsel of record for the named defendants has agreed to enter an appearance for

Sergeant Negley. The motion will be considered to have been served by electronic service as of this date. Therefore,

**IT IS ORDERED** this 2/5<sup>th</sup> day of March, 2007, that Plaintiff's Motion to Amend Complaint (Doc. No. 50), interpreted as a Motion to Amend the Caption is **GRANTED**. The Clerk of Court shall amend the caption to replace Defendant "The Sergeant" with "Sergeant Negley".

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Service (Doc. No. 48) is **DENIED** as moot.

**IT IS FURTHER ORDERED** that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.



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Lisa Rupo Lenihan  
U.S. Magistrate Judge

cc: ROBERT R. PORTER  
DU-6434]  
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Counsel of record.